

Message Text

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ORIGIN ARA-20

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FM SECSTATE WASHDC

TO AMEMBASSY MANAGUA

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E.O. 11652: GDS

TAGS: BDIS

SUBJECT: INSURANCE DISPUTE INVOLVING U.S. COMPANY

1. RONALD SHELP AND FLORINDO DEROSA OF THE AMERICAN INTERNATIONAL UNDERWRITERS CORPORATION (PARENT COMPANY OF AMERICAN HOME INSURANCE COMPANY), VISITED THE DEPT. JUNE 20 TO INFORM US OF DIFFICULTIES THEIR NICARAGUAN BRANCH IS ENCOUNTERING IN MANAGUA FIRST DISTRICT COURT.

2. ACCORDING COMPANY, PROBLEM INVOLVES THOSE INSURANCE POLICIES IT HAS THAT HAVE "FIRE ONLY" PROVISIONS AS OPPOSED TO "EARTHQUAKE AND FIRE." LATTER CLAIMS AS A RESULT OF THE MANAGUA EARTHQUAKE HAVE BY AND LARGE BEEN PAID. COMPANY CLAIMS THAT AMERICAN HOME, DESPITE THE ALMOST UNANIMOUS POSITION TAKEN BY OTHER INSURANCE COMPANIES IN RESISTING PAYMENT OF NON-COVERED CLAIMS, EMBARKED UPON A POLICY OF ADJUSTMENT OF SUCH CLAIMS ON WHAT IT BELIEVED WAS A FAIR BASIS. COMPANY SPOKESMEN MAINTAIN AMERICAN HOME NOT REQUIRED TO PAY THESE CLAIMS BECAUSE OF EXCLUSIONARY PRO-

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VISIONS OF INSURANCE CONTRACTS, BUT THAT-IT-BELIEVES IT

HAD EQUITABLE RESPONSIBILITY TO DO SO. UNFORTUNATELY, ACCORDING COMPANY, UNSCRUPULOUS LAWYERS HAVE CONVINCED SOME INSURED PERSONS THAT THEY SHOULD HOLD OUT FOR 100 AND HAVE TAKEN COMPANY TO COURT.

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3. ACCORDING COMPANY, UNDER NICARAGUAN LAW, ORDERS HAVE BEEN ISSUED TO PAY FULL AMOUNT WITHOUT A HEARING ON THE MERITS OR PRESENTATION OF DEFENSE. SINCE AMERICAN HOME HAS NOT PAID, IT IS THREATENED WITH IMMEDIATE ATTACHMENT OF BUSINESS WITH AN INTERVENOR BEING APPOINTED. IF PAYMENT IS MADE COMPANY ALLEGES THAT THEY ARE NOT GIVEN ADEQUATE PROTECTION FOR THE RETURN OF SUCH SUMS IN THE EVENT OF A FAVORABLE FINAL DETERMINATION. IN ADDITION, THERE IS PENDING AGAINST BRANCH OFFICE OF AMERICAN HOME A PETITION TO DECLARE IT BANKRUPT BECAUSE OF FAILURE TO MAKE PAYMENT, ALTHOUGH ACCORDING COMPANY IT IS COMPLETELY SOLVENT.

4. COMPANY NOTES THAT PROBLEM IS NOT PECULIAR TO AMERICAN HOME AND THAT IT COULD APPLY TO ENTIRE INSURANCE INDUSTRY. SPOKESMEN EMPHASIZED THAT THEY ARE WILLING ABIDE BY COURT DECISIONS BUT ARE CONCERNED OVER (A) PAYING OUT LARGE SUMS OF MONEY PRIOR TO ADJUDICATION ON MERITS; AND (B) LACK OF PROCEDURE FOR THE RETURN OF SUCH SUMS SHOULD THEY WIN THE CASE. COMPANY AGREEABLE TO ALTERNATIVES SUCH AS DEPOSIT OF LETTERS OF CREDIT OR POSTING OF BANK GUARANTEES PAYABLE UPON FINAL JUDICIAL DETERMINATION.

5. ACTION REQUESTED: EMBASSY REQUESTED TO INVESTIGATE THIS MATTER AND PROVIDE DEPT. WITH REPORT AND RECOMMENDATIONS. COMPANY ATTORNEY IN MANAGUA IS HENRY HUECK. KISSINGER

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